

Before the
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Market-Dominant Price Change

Docket No. R2021-1

PUBLIC REPRESENTATIVE COMMENTS
(October 29, 2020)

On October 9, 2020, the Postal Service filed a notice of inflation-based price adjustments affecting market dominant domestic and international products and services, temporary mailing promotions and changes to the Mail Classification Schedule (MCS).¹ The Commission issued Order No. 5719 on October 13, 2020, establishing this proceeding to consider the adjustments and related classification changes.² In that order, the Commission also appointed the undersigned to serve as Public Representative in the proceeding.³

Having reviewed the proposed changes and supporting information, the Public Representative concludes that the proposed changes are consistent with applicable law, including the requirements of 39 CFR part 3030, subpart B.

I. INTRODUCTION

The Postal Service is proposing a Type 1-B rate adjustment authorized under 39 U.S.C. § 3622(c)(10) and subject to 39 CFR part 3030 of the Commission's regulations. The proposed adjustments are subject to an inflation-based annual limitation and use previously unused rate adjustment authority. Notice at 4-5; see also 39 CFR § 3030.505. Rate adjustments are proposed for postal products in all five market dominant mail classes: First-Class Mail, USPS Marketing Mail, Periodicals, Package Services, and Special Services. See

¹ United States Postal Service Notice of Market-Dominant Price Change, October 9, 2020 (Notice).

² Notice and Order on Price Adjustments and Classification Changes for Market Dominant Products, October 13, 2020 (Order No. 5719).

³ *Id.* at 4. Assisting the Public Representative in this proceeding are Kenneth E. Richardson in the Commission's Office of General Counsel and Kenneth R. Moeller in the Commission's Office of Accountability and Compliance.

Notice at 7, 13, 17, 24, and 25. The adjusted rates are scheduled to go into effect on January 24, 2021. *Id.* at 1.

In addition to rate adjustments, the Postal Service will continue to offer six promotional discounts in 2021 (*id.* at 28-32) and will introduce a \$0.001 per piece rate incentive for Seamless Acceptance which automates the Postal Service's manual mail verification process (*id.* at 32-34). The Postal Service also explains how it has complied with the pricing requirements for certain preferred categories of mail. *Id.* at 34-36. Finally, the Postal Service identifies changes to the MCS needed to implement the planned rate and classification changes. *See id.* at 36-37.

II. PRICE CAP COMPLIANCE

The annual limitation of the percentage change in prices is equal to the change in the Consumer Price Index for All Urban Consumers (CPI-U) over the most recent 12-month period. 39 U.S.C. § 3622(d)(1)(A). This limitation applies to each class of mail. 39 U.S.C. § 3622(d)(2)(A). If the Postal Service does not use a portion of its annual limitation in a case, it may carry forward that portion in the next market dominant rate case as "banked" authority. 39 U.S.C. § 3622(d)(2)(C). However, the Postal Service may not use more than 2 percentage points of banked authority for any class of mail in any 12 month period. 39 CFR. § 3030.525. The total cap space available in a 12 month period is the sum of the banked authority and the annual limitation. For this rate adjustment, the total available cap space is 1.843 percent for First-Class Mail, 1.519 percent for USPS Marketing Mail, 1.458 percent for Periodicals, 1.466 percent for Package Services and 1.465 percent for Special Services. Notice at 5.

After reviewing the Postal Services Cap Calculation workpapers filed under seal, it appears that the Postal Service's proposed price adjustments neither exceed the price cap authority in any mail class nor utilize more than 2 percentage points of banked authority for any class of mail and thus appear to conform to the requirements of 39 U.S.C. and 39 CFR part 3030.

III. OBJECTIVES AND FACTORS

Section 3030.512(b)(7) of the Commission's regulations requires the Postal Service's Notice to "demonstrate how the planned rate adjustments are designed to help achieve the objectives listed in 39 U.S.C. § 3622(b) and properly take into account the factors listed in 39 U.S.C. § 3622(c)." 39 CFR § 3030.512(b)(7). In purported compliance with that requirement, the Postal Service's Notice provides explanations of how its rate adjustments satisfy that requirement. See Notice at 7-26.

The Commission has recognized that application of the statutory objectives and factors to proposed price adjustments "is necessarily fact-specific, situation-specific, and generally qualitative in nature. [footnote omitted]"⁴ Moreover, "some aspects of the objectives and factors are in tension with each other, whereas other aspects may overlap. [footnote omitted]." Order No. 5373 at 17-18; Order No. 5321 at 46.

In this proceeding, as in prior proceedings, the Commission has the ultimate authority to determine "how much weight to apply to particular objectives and factors, and how to balance the objectives and factors on review of a particular price adjustment...." Order No. 5373 at 17, Order No. 5321 at 45. Commission determinations can vary from case to case based upon the weight it attached to particular objectives and factors and how it balances the objectives and factors. Order No. 5373 at 17, Order No. 5321 at 46. And, in each case, there is "a range of acceptable price adjustments that satisfies the objectives and factors." Order No. 5373 at 17, Order No. 5321 at 45-46.

First-Class Mail.

The Postal Service proposes a 1.836 percent average increase in First-Class Mail prices.⁵ Two of the First-Class Mail products are to increase above the class level average.

⁴ E.g., Docket No. R2020-1, Order Approving Price Adjustments and Related Mail Classification Changes for First-Class Mail, December 20, 2019, at 17 (Order No. 5373); Docket No. R2020-1, Order on Price Adjustments for USPS Marketing Mail, Periodicals, Package Services, and Special Services Products and Related Mail Classification Changes, November 22, 2019, at 46 (Order No. 5321).

⁵ See Notice at 7. This will leave unused cap space after the current proceeding of 0.007 percent for First-Class Mail. *Id.* at 6.

The Presort Letters/Postcards product is to increase 2.163 percent. Notice at 7. The Inbound Letter Post product is to increase 7.549 percent. *Id.*

Within the Letters product category, the rate for one-ounce Stamped Letters will remain at 55 cents. *Id.* at 8. There are, however, a number of changes within the Single-Piece Letters/Postcards product, including a one cent increase in the one-ounce Metered Letter rate, a five cent increase in the additional-ounce price for letters to align with the additional-ounce price for flats, and a five cent increase in the non-machinable letter surcharge price. *Id.*

Within the Flats product, there is an increase for Keys and ID devices, a 5.02 percent increase for Non-Automated Flats, and a 4.1 percent increase for Automated Presort Flats.

The Postal Service asserts that “a multi-year perspective is the most appropriate way to consider how the Postal Service’s overall rate design conforms to the objectives and factors that govern the ratemaking system.” *Id.* at 9, 10. As a general proposition, the Commission has accepted this notion of “a multi-year perspective”:

Moreover, considering the competing priorities encapsulated in the objectives and factors would naturally result in varying adjustments from year to year. In any event, the objectives and factors do not preclude the Postal Service from rebalancing the impact of prior price adjustments under a class-based price cap on a multi-year basis.

Order No. 5373 at 30.

Indeed, the Commission has stated its expectation that the Postal Service might be compelled to vary price adjustments from year-to-year:

In fact, the operation of the annual limitation at the class level necessarily means that the Postal Service must, in order to follow any pricing strategy that does not have each product moving lock step with changes to inflation, vary the size of increases among products within each class.

Order No. 5285 at 41.

Acceptance of the multi-year perspective as a general proposition does not, however, preclude the need for more specific analysis. In noting that above class average price increases in some years followed by below class average increases in subsequent years was

“not outside the realm of recent mailer experience”, the Commission acknowledged that such a situation “would require specific analysis when it is presented”. *Id.* at 40-41.

In this proceeding, the Postal Service provides such a specific discussion of how its First-Class Mail rate adjustments are designed to achieve the statutory objectives in light of the statutory factors within its multi-year pricing strategy. Notice at 10-11. It asserts that the sequence of rate adjustments for Metered Letters comports with Objective 2 (by creating rate predictability and stability). *Id.* at 10. It states further that the above-average increase for Metered Letters furthers Objective 4 (by allowing pricing flexibility) and Factor 3 (by balancing the effect of the increases among the general public and business mail users). *Id.* By applying above-average increases to both Metered Letters and Presort Letters and Cards (discussed below), the increases distribute available cap space across business mail users. *Id.*

In response to CHIR No. 2, the Postal Service provides an explanation of how the \$0.05 increases of the additional-ounce price for letters and the non-machinable surcharge for letters are designed to help achieve statutory objectives in light of the statutory factors.⁶ In 2019, the Postal Service reduced the rates for the additional-ounce price for letters, the non-machinable surcharge, and the additional-ounce price for flats from 21 cents to 15 cents. *Id.* The Postal Service states that this was part of a multi-year pricing strategy that allowed it to increase “the one-ounce Stamped Letter price from 50 to 55 cents, while mitigating the effect of that increase on users who mail nonstandard shaped or heavier pieces. *Id.* The Postal Service asserts that the 2019 price reductions should have led mailers reasonably to assume that these prices would increase in the future and that the proposed 5 cent increases will “bring[] the additional-ounce price for letters and the non-machinable surcharge for letters back into alignment with the additional-ounce price for flats, while maintaining the stamp at 55 cents.” *Id.* The Postal Service concludes by arguing that these significant year-to-year price changes are “empowered by Objective 4,...partially foreseeable and therefore

⁶ Response of the United States Postal Service to Chairman’s Information Request No. 2, October 26, 2020, question 7.

comport with Objective 2...[and] ... reflect consideration of the effect of increases upon the mailing public, *i.e.*, Factor 3.” *Id.*

With respect to the Presort Letters and Cards product, the Postal Service asserts that its proposed above-average price increase is consistent with Objective 2 (by creating rate predictability and stability) and Factor 3 (by balancing the effect of the Postal Service’s multi-year pricing strategy upon the general public and business mailers). Notice at 11.

With respect to the Flats product, the Postal Service asserts that the increased prices for Keys and ID devices amount to a *de minimis* increase for Single-Piece Flats, and that the above class average price increases for Non-Automated Flats (5.02 percent) and Automated Presort Flats (4.1 percent) are necessary to prevent the cost coverage for the Flats product from falling below 100 percent. *Id.* at 9. It bases these increases on a strategy that seeks “to ensure adequate cost coverage (Objectives 1, 4, 5, and 8; Factors 2, 12, and 13; and 39 U.S.C. § 101(d)).” *Id.*

Finally, the Postal Service states that the above class average price increase of 7.549 percent for International Inbound Letter Post is based upon the regularly scheduled terminal dues price increases determined by the Universal Postal Union. *Id.* at 9.

Based upon review of the Notice and supporting information, the Public Representative concludes that the proposed First-Class Mail prices are within the range of prices that would be consistent with the objectives of 39 U.S.C. § 3622(b) and properly take into account the factors of 39 U.S.C. § 3622(c).

USPS Marketing Mail.

The Postal Service proposes a 1.509 percent change in USPS Marketing Mail prices.⁷ Four of the USPS Marketing Mail products are to increase above the class-level change. Those products are Flats (3.553 percent), Parcels (16.791 percent), and High Density / Saturation Letters (2.373 percent). Notice at 13.

⁷ Notice at 13. This will leave unused cap space after the current proceeding of 0.010 percent for USPS Marketing Mail. *Id.* at 6.

The Postal Service states that the above-average price increases for these three products are being made to comply with directives and recommendations in the Commission's Fiscal Year 2019 Annual Compliance Determination.⁸ It asserts that these price adjustments also reflect Objective 4 (to allow the Postal Service pricing flexibility), Objective 5 (to achieve financial stability), Factor 7 (the importance of pricing flexibility to achieve increased mail volume and operational flexibility), and other unspecified objectives and factors. Notice at 13.

The below-average price increases proposed for the Letters product are explained as being part of a rate cycle in which the product had previously received an above average increase. This multi-year pricing strategy, like the one for First-Class Mail discussed above, is claimed by the Postal Service to be supported by Objective 2 (creating rate predictability and stability) and Factor 3 (balancing the effect of rate increases on the general public and business mailers). *Id.*

In addition, the Postal Service asserts that it is proposing contrasting price changes that should incentivize greater presortation and drop-shipment by mailers in furtherance of Objective 1 (maximization of incentives to reduce costs and increase efficiency), and Factors 5 (reduction of Postal Service costs by incentivizing mail preparation by mailers), 7 (use of pricing flexibility to encourage increased mail volume and operational efficiency), and 12 (increase efficiency and reduce costs to help maintain high quality, affordable postal services). *Id.* at 13-14. As examples of these contrasting price changes, the Postal Service cites: a continued below-average increase for High Density and Saturation Flats and Parcels compared to a significantly above-average increase for regular Flats and Parcels; increases for High Density Letters and Flats compared with no increase for High Density Plus and Saturation Letters and Flats; and relatively large increases for the least presorted and least drop-shipped categories within the Flats product. *Id.* at 14.

Detached Address Labels (DALs) and Detached Marketing Labels (DMLs) for Saturation Flats within the High Density and Saturation Flats and Parcels product are to

⁸ Notice at 13 *citing* Docket No. ACR2019, Annual Compliance Determination Report: Fiscal Year 2019, March 25, 2020, at 43 (Flats), 46 (Parcels), 52 (Carrier Route) (FY 2019 ACD).

receive 20 percent and 22 percent increases, respectively. *Id.* The Postal Service states that these increases are well within the range of past increases. *Id.* n.18. It asserts further that these increases reflect increased value to mailers and are designed to achieve Objective 5 (achieving financial stability) in light of Factor 1 (the value of mail service actually provided), Factor 3 (the effect of mail service upon the business mailers and other enterprises), and Factor 8 (the relative value of mail and the desirability and justification for special classifications and services). *Id.* at 14. The Postal Service concludes by pointing out that notwithstanding the magnitude of the proposed increases, the overall increase for High Density and Saturation Flats and Parcels is only 0.989 percent, or slightly more than half of the increase for the USPS Marketing Mail Class. *Id.*

The Postal Service has also proposed moving lightweight Nonautomation Nonmachinable letter-shaped pieces from the Letters product to the Flats product in the MCS. *Id.* This proposal is an outgrowth of the Postal Service's market dominant price adjustments in Docket No. R2020-1.⁹ In the R2020-1 proceeding, the Postal Service proposed changes in some prices for USPS Marketing Mail letters that would have been higher than prices for heavier USPS Marketing Mail flats.¹⁰ The Commission criticized the proposal for failing to set prices "in a logical manner" and encouraged the Postal Service "to maintain a set of prices that provides for smooth transitions between light weight and heavy weight prices to ensure that prices are both logical and send correct price signals to mailers." Order No. 5321 at 28. During the course of the R2020-1 Proceeding, the Postal Service stated that it would "consider recommending that the Governors, in future filings, amend the MCS to move all Nonmachinable Letters into the Flats product and, to the extent practicable, establish smooth transitions at the Nonprofit breakpoints."¹¹ The Postal Service asserts that its "planned rate and classification change for lightweight Nonautomation Nonmachinable

⁹ See Docket No. R2020-1, United States Postal Service Notice of Market-Dominant Price Change, October 9, 2019.

¹⁰ See Docket No. R2020-1, Order on Price Adjustments for USPS Marketing Mail, Periodicals, Package Services, and Special Services Products and Related Mail Classification Changes, November 22, 2019, at 26-27 (Order No. 5321).

¹¹ Docket No. R2020-1, Response of the United States Postal Service to Chairman's Information Request No. 5, October 24, 2019, question 1.c.

letter-shaped pieces will ensure smooth transitions between the per-piece-only prices for lightweight pieces and the piece-pound prices for heavyweight pieces [footnote omitted].” Notice at 15.

Based upon review of the Notice and supporting information, the Public Representative concludes that the proposed prices for USPS Marketing Mail are within the range of prices that would be consistent with the objectives of 39 U.S.C. § 3622(b) and properly take into account the factors of 39 U.S.C. § 3622(c).

Periodicals.

The Postal Service proposes a 1.456 percent change in Periodicals prices.¹² One of the two products in this Class, Outside County Periodicals, will be given an above average 1.469 percent increase. Notice at 17. The other product, Within County Periodicals, will be increased by 1.202 percent, which is below the Class average. *Id.*

As the Commission has previously recognized, the Periodicals Class suffers from structural problems that severely limit the Postal Service’s ability to raise prices.¹³ Within the parameters in which it must operate, the Postal Service is making essentially four changes:

First, it is proposing above-average increases for trays, sacks, pallets, and bundles, to boost their cost coverage. This change is made to help achieve Objective 5 (improve financial stability) in light of Factor 2 (to take into account the requirement that each class of mail or type of service cover its attributable costs). Notice at 17.

Second, the Postal Service is separating sack and tray prices and imposing higher increases for sacks and trays than for pallets and bundles to help achieve Objective 1 (the maximization of cost reduction incentives and efficiency increases) in light of Factor 5 (increase the degree of mail preparation by mailers and thereby reduce Postal Service costs), Factor 7 (use pricing flexibility to increase mail volume and operational efficiency), and Factor 12 (increase efficiency and reduce costs). *Id.*

¹² Notice at 17. This will leave unused cap space after the current proceeding of 0.002 percent for Periodicals. *Id.* at 6.

¹³ See Docket No. RM2017-3, Revised Notice of Proposed Rulemaking, December 5, 2019, 164-165 (Order No. 5337).

Third, the Postal Service is increasing the price differential between basic Carrier Route and Machinable Automation 5-Digit Flats to encourage the preparation of Carrier Route pieces to help achieve Objective 1 (the maximization of cost reduction incentives and efficiency increases) in light of Factor 5 (increase the degree of mail preparation by mailers and thereby reduce Postal Service costs), Factor 7 (use pricing flexibility to increase mail volume and operational efficiency), and Factor 12 (increase efficiency and reduce costs). *Id.*

Fourth, the Postal Service is increasing piece prices to bring all workshare discount passthroughs down to 100 percent or below. It states that it is taking this action to help achieve Objective 1 (the maximization of cost reduction incentives and efficiency increases) and Objective 8 (the establishment of a just and reasonable schedule for rates and classifications) in light of Factor 1 (the value of mail service actually provided). *Id.* at 18.

Based upon review of the Notice and supporting information, the Public Representative concludes that the proposed prices for Periodicals are within the range of prices that would be consistent with the objectives of 39 U.S.C. § 3622(b) and properly take into account the factors of 39 U.S.C. § 3622(c).

Package Services.

The Postal Service proposes a 1.460 percent change in Package Services prices.¹⁴ Only one Package Services product, Media Mail and Library Mail, will be given an increase (3.579 percent). Notice at 24.

In its FY 2019 Annual Compliance Determination, the Commission found that [t]he Postal Service's approach to improve cost coverage through above-average price increases in future Market Dominant price adjustments is appropriate, but it has been historically inadequate. FY 2019 ACD at 66. The Commission therefore directed the Postal Service "to submit a plan outlining how it will increase cost coverage of Media Mail/Library Mail within 90 days of the filing of this ACD." *Id.*

¹⁴ Notice at 24. This will leave unused cap space after the current proceeding of 0.006 percent for Package Services. *Id.* at 6.

In its response to the Commission's ACD directive, the Postal Service stated that "[o]n balance, it seems unlikely to expect material improvements in the MLM cost coverage from the net effects of either operational changes or methodology changes...[and that]...as a practical matter, any plan to improve MLM cost coverage must focus on rates."¹⁵ The Postal Service stated further that it "hopes...that a series of above-average increases for MLM would yield cost coverage improvements." *Id.*

The 3.579 percent increase proposed by the Postal Service for Media Mail and Library Mail is above the 1.460 percent class average increase for the Package Services product. The Postal Service states that this above-average increase is "to improve cost coverage for those products (Objectives 1, 5, and 8; Factors 2 and 13 (in conjunction with 39 U.S.C. § 101(d))." Notice at 24. The Postal Service states that its decision to price Media Mail and Library products below other ground parcel products "reflects...consideration for their educational, cultural, scientific, and informational value (Factor 11)." *Id.*

Based upon review of the Notice and supporting information, the Public Representative concludes that the proposed prices for Package Services are within the range of prices that would be consistent with the objectives of 39 U.S.C. § 3622(b) and properly take into account the factors of 39 U.S.C. § 3622(c).

Special Services.

The Postal Service proposes a 1.458 percent change in Special Services prices.¹⁶ The prices of four products in the Special Services Class are to increase by more than the class average: International Ancillary Services (1.902 percent), Address Management Services (6.493 percent), International BRM Service (2.601 percent), and Money Orders (3.215 percent). Notice at 25.

The Postal Service explains that the largest product price increase above the class average, the 6.493 percent increase for Address Management Services, is due to changes to

¹⁵ Second Response of the United States Postal Service to Commission Requests for Additional Information in the FY 2019 Annual Compliance Determination, June 23, 2020, question 1.

¹⁶ Notice at 25. This will leave unused cap space after the current proceeding of 0.007 percent for Special Services. *Id.* at 6.

the additional copy factor pricing table. *Id.* at 26. The changes to these factors “reflect the value that these products offer to mailers” citing Factor 1 (the value of mail service actually provided to each class to both the sender and the recipient) and Factor 8 (the relative value to people of the kinds of mail matter and the desirability and justification for special classifications and services). *Id.*

Most price increases within those products are within a range of 0 to 5 percent. *Id.* at 25. There are, however, several services within the Ancillary Services product that increase by more than 5 percent. One of the largest such increases is the price increase for USPS Tracking for Marketing Mail Parcels, an increase of 2 cents, or 10 percent. *Id.* The Postal Service attempts to put this increase in context by noting that this service is an add-on service and that a 2 cent increase “will not be outsized or overly burdensome” to mailers, nor will it discourage mail volume. *Id.* It asserts that the increase “reasonably balances Objective 5 and Factor 3, and in addition is consistent with Objectives 4 and 8 and Factor 7.” *Id.* at 25-26.

Four other services within the Ancillary Services product will increase by more than 5 percent: AIS Viewer (5.2 percent), ZIP move (83. Percent), AIS Unlimited License (10.0 percent), and Computerized Delivery Sequence (8.3 percent). *Id.* at 26. The Postal Service states that “[t]his exercise of pricing flexibility helps to promote financial stability and to maintain a just and reasonable schedule for rates and classifications (Objectives 4, 5, and 8, Factor 7).” *Id.* Finally, the Postal Service asserts that “[t]he price adjustments reflect the relative value and desirability of the various services to customers (Factors 1 and 8).” *Id.*

Left unaddressed by the Postal Service is the basis for its decision to increase prices for Stamp Fulfillment Services (1.293 percent) below the class average for Special Services (1.458). See *id.* at 25-26. Stamp Fulfillment Services (SFS) was added to the MCS as a Market Dominant product in FY 2010. Cost coverage has been below 100 percent each year since its introduction. In its FY 2019 ACD, the Commission urged the Postal Service “to continue its efforts to improve cost coverage for SFS...[and that if]...the Postal Service proposes a below-average price increase in its next Market Dominant price increase, it

should explain its rationale.” FY 2019 ACD at 67. The Postal Service has failed to explain why it has proposed a below average increase.

Based upon review of the Notice and supporting information, the Public Representative concludes that the Postal Service should be required to explain the basis for its decision to increase prices for Stamp Fulfillment Services at less than the class average for Special Services. Assuming a satisfactory explanation is provided, all of the proposed price increases for Special Services will be within the range of prices that would be consistent with the objectives of 39 U.S.C. § 3622(b) and properly take into account the factors of 39 U.S.C. § 3622(c).

IV. WORKSHARE DISCOUNTS

In this rate adjustment proceeding, the Postal Service has no avoided cost passthroughs over 100 percent. The Commission has continually encouraged the Postal Service to accomplish this so as to be in compliance with 39 U.S.C. § 3622(e)(2).

There are, however, many avoided cost passthroughs that are under 100 percent. See Notice, Attachment B. The Postal Accountability and Enhancement Act, Pub. L. 109-435, 120 Stat. 3198 (2006) is silent as to the permissibility of passthroughs under 100 percent.

Table 1, below, shows the Postal Service worksharing discount passthroughs by product resulting from this rate adjustment filing. Also shown on the table is the cost coverage status of the products.

| Table 1 | | | | | |
|--|-----------|-----------|---------------|--------------------|---------------|
| Workshare Discount Passthrough Levels by Product | | | | | |
| | 100% | 85% - 99% | less than 85% | Total Passthroughs | Cost Coverage |
| First-Class Mail | 0 | 10 | 2 | 12 | |
| Flats | 0 | 3 | 0 | 3 | 109.0% |
| Presort Letters and Cards | 0 | 5 | 2 | 7 | 292.9% |
| Single-Piece Letters and Cards | 0 | 2 | 0 | 2 | 156.1% |
| Marketing Mail | 10 | 23 | 18 | 51 | |
| Carrier Route | 3 | 4 | 5 | 12 | 99.9% |
| Flats | 1 | 8 | 0 | 9 | 67.7% |
| High Density and Saturation Flats | 0 | 0 | 4 | 4 | 138.2% |
| High Density and Saturation Letters | 0 | 2 | 1 | 3 | 204.7% |
| Letters | 3 | 2 | 1 | 6 | 190.0% |
| Parcels | 3 | 7 | 7 | 17 | 56.9% |
| Package Services | 1 | 4 | 7 | 12 | |
| Bound Printed Matter - Flats | 1 | 1 | 2 | 4 | 143.7% |
| Bound Printed Matter - Parcels | 0 | 3 | 1 | 4 | 106.1% |
| Medial Mail & Library Mail | 0 | 0 | 4 | 4 | 71.5% |
| Periodicals | 0 | 13 | 17 | 30 | |
| Inside County | 0 | 0 | 11 | 11 | 58.4% |
| Outside County | 0 | 13 | 6 | 19 | 64.3% |
| Grand Total | 11 | 50 | 44 | 105 | |
| Source: Docket No. R2021-1, Market Dominant Rate Adjustment Filing, Attachment B Errata, Oct.22, 2020 | | | | | |

As shown on Table 1, the Postal Service has 94 passthroughs that are below 100 percent. Of those, 94 passthroughs, 44 have passthroughs below 85 percent.¹⁷ Non compensatory (so-called “underwater”) products account for 28 of the 44 passthrough percentages that are below 85 percent.

¹⁷ In Order No. 5337, the Commission has proposed an 85 percent threshold for assessing the adequacy of workshare passthroughs. See Order No. 5337 at 208-209.

In its Notice, the Postal Service presents a thoughtful argument that, in the case of underwater products, increasing passthroughs to 100 percent ensures that workshared volume will lose the same amount of money per piece as the benchmark rate category, and any induced volume will likewise generate negative contribution. Notice at 21-23. This situation is the inverse of the case of an “above water” product where offering a discount to match avoided costs will benefit the Postal Service other things being equal: the Postal Service would earn the same unit contribution on mail that migrates to the discounted rate, and the effective price reduction would induce some additional workshared volume with the same level of unit contribution. The Postal Service thus concludes that increasing workshare discounts in an underwater product could worsen negative contribution. For this reason, the Postal Service cautions against an ironclad rule that all workshare discounts must be increased toward 100 percent passthrough.¹⁸

The Public Representative sees merit in the Postal Service’s argument concerning underwater products with less than 100 percent discount passthroughs. Passthroughs for underwater products should be examined on a case-by-case basis with the Postal Service allowed to support its discount passthroughs with a more detailed explanation of the balancing of objectives in light of the reality of the economics surrounding underwater products.

V. PREFERENTIAL RATES

A. Periodicals

The Public Representative has reviewed the Postal Service’s Notice for compliance with the required statutory preferential rates for certain preferred mail categories.

¹⁸ *Id.* In Order No. 5337, the Commission has proposed that should a passthrough fall below 85 percent, the workshare discount would still be permissible if the proposed workshare discount is new or if the proposed workshare discount is at least 20 percent higher than the existing workshare discount. See Order No. 5337 at 208-209. If a passthrough is below 85 percent and the Postal Service is unable to increase the discount by at least 20 percent, the Postal Service may file an application in advance of the next rate adjustment proceeding that shows by a preponderance of the evidence that raising the proposed workshare discount by at least 20 percent would impede the Postal Service’s operational efficiency.

For Periodicals, there are several requirements for the preferred categories. The Postal Service states that prices for Within County Periodicals reflect their preferred status. 39 U.S.C. § 3626(a)(3). It continues to keep the prices of Within County Periodicals below the prices of regular Outside County Periodicals. Notice at 34.

The Postal Service also states that consistent with past practice the proposed rates comply with the requirement for Nonprofit and Classroom Periodicals discounts from regular rate postage. Nonprofit and Classroom Periodicals receive a 5 percent discount on all components of postage except for advertising pounds and ride-along postage. *Id.* at 35; 39 U.S.C. § 3626(a)(4)(A).

The Postal Service further states that, consistent with past practice, Science of Agriculture Periodicals receive preferential treatment for advertising pounds for DDU, DSCF, and DADC and Zones 1 & 2 that are 75 percent of the advertising pound rates applicable to regular Outside County Periodicals. *Id.* at 35, 39; U.S.C. § 3626(a)(5).

The limited circulation discount for Periodicals provides for preferential treatment for Periodicals with fewer than 5,000 Outside County pieces and at least one In-County piece. Such pieces continue to receive a discount equivalent to the Nonprofit Classroom Periodicals discount. *Id.* at 36; 39 U.S.C. § 3626(g)(4).

B. Marketing Mail

For Marketing Mail, nonprofit rates must yield per-piece revenue that equal, as nearly as practicable, 60 percent of the estimated commercial average per-piece revenue. 39 U.S.C. § 3626(a)(6)(A). The Postal Service Notice states that the proposed prices achieve a revenue per piece ratio of 60.19 percent.¹⁹ It also states that nonprofit discounts are being maintained “equal to the comparable commercial discounts.” *Id.* at 35.

¹⁹ Notice at 35, see USPS-LR-R2021-1-2. The Postal Service also states that consistent with past practice it has calculated this ratio at class level. *Id.* n. 31.

C. Package Services

For Package Services, Library Mail must be as nearly as practicable to 95 percent of the Media Mail prices. The Postal Service states that it has followed this requirement. *Id.* at 35; 39 U.S.C. § 3626(a)(7).

After review, the Public Representative concludes that the Postal Service fulfills the requirements of 39 U.S.C. § 3626(a)(3), (a)(4)(A), (a)(5), (g)((4)(C), (a)(6), and (a)(7).

VI. PROMOTIONS

A. Six Promotions Continue

The Postal Service will be offering six promotions during calendar year 2021. Three are available for both First-Class and Marketing Mail pieces.²⁰ One is available only for First-Class mail.²¹ Two are available for Marketing Mail.²² Except for the Earned Value Reply Mail promotion, the Postal Service has not updated or modified its promotions from calendar year 2020. Notice at 30-32.

B. Earned Value Reply Mail

For Calendar Year 2021, the Postal Service revised the Earned Value Reply Mail promotion to remove the mailer-specific volume threshold requirement of previous years such that the promotion now will apply a \$0.02 credit to all qualifying mail pieces regardless of a mailer's volume history. This modification complies with the new rule established in the Commission's recent rulemaking in Docket No. RM2020-5 clarifying the definition of "rate of general applicability."²³ The rule requires that in order to include promotional volumes in the

²⁰ Earned Value Reply Mail, Emerging & Advanced Technology, and Informed Delivery.

²¹ Personalized Color Transpromo.

²² Mobile Shopping and Tactile, Sensory, and Interactive Engagement.

²³ See Order No. 5321 at 19-24. See also RM2020-5, *Amendment to Rules Regarding Rate Incentives for Market Dominant Products*, Order Adopting Final Rules Regarding Rate Incentives for Market Dominant Products, May 15, 2020 (Order No. 5610). After the Postal Service filed an appeal of Order No. 5610, the Commission issued in that docket a notice to reconsider further comments of the Postal Service upon further

cap space requirement calculation, and so increase the Postal Service's cap space, promotional rates must meet the requirements for rates of general applicability in 39 CFR part 3030.²⁴ The earned value Reply Mail rate now meets the definition of a "rate of general applicability" and may be included in the cap space calculation.

VII. SEAMLESS ACCEPTANCE INCENTIVE

Pursuant to 39 CFR § 3030.512, the Postal Service's Notice includes notice of the Seamless Acceptance rate incentive to be included in the rates calculation. Notice at 34. The Seamless Acceptance incentive volumes are included in the percentage changes in rates calculations for each of the four classes where Seamless Acceptance will be available to all mailers on the same terms and conditions. *Id.* The Seamless Acceptance notice meets the requirements of 39 CFR § 3030.512(b)(9)(i). Seamless Acceptance also meets the criteria in 39 CFR § 3030.523(e)(2) for including that rate incentive in the percentage change in rates calculation.²⁵ Full Service volumes were submitted by Seamless Acceptance mailers during the Hybrid Year for each class." Notice at 34.

order of the Commission. Notice of Intent to Reconsider, August 26, 2020, Order No. 5655. To date, no order setting the time for further comments has been issued.

²⁴ 39 CFR § 3030.501 was amended by Order No. 5610 revising paragraph (g) to read as follows:

§ 3030.501 Definitions.

* * * * *

(g) Rate of general applicability means a rate applicable to all mail meeting standards established by the Mail Classification Schedule, the Domestic Mail Manual, and the International Mail Manual. A rate is not a rate of general applicability if eligibility for the rate is dependent on factors other than the characteristics of the mail to which the rate applies, including the volume of mail sent by a mailer in a past year or years. A rate is not a rate of general applicability if it benefits a single mailer. A rate that is only available upon the written agreement of both the Postal Service and a mailer, a group of mailers, or a foreign postal operator is not a rate of general applicability.

²⁵ **39 CFR § 3030.523 Calculation of percentage change in rates.**

(e) *Treatment of rate incentives.*

(2) A rate incentive may be included in a percentage change in rates calculation if it meets the following criteria:

(i) The rate incentive is in the form of a discount or can easily be translated into a discount;

VIII. FLATS AND PARCEL RATES

The Postal Service acknowledges the Commission's recent directive in the FY 2019 ACD that the Postal Service raise Flats and Parcels rates at least 2 percentage points above the USPS Marketing Mail class average increase, and strongly recommended the same for Carrier Route.²⁶ The Commission's FY 2018 ACD also had previously included a similar directive for Flats and Parcels.²⁷ In addition, the FY 2018 ACD directive for USPS Marketing Mail Flats required that "the Postal Service must continue responding to the requirements of the FY 2010 ACD directive . . ." *Id.* at 72. The FY2010 ACD directed the Postal Service to "to increase the cost coverage of the Standard Mail Flats product through a combination of above-average price adjustments consistent with the price cap requirements, and cost reductions until such time as the revenues for this product exceed attributable costs."²⁸

The Notice demonstrates that those directives are met for the three proposed product price changes. The proposed percentage increase overall for Marketing Mail is 1.509 percent. The proposed increase for Flats is 3.553 percent, or 2.044 percent above the class average; the proposed Parcels price change is more than 15 percentage points above the Marketing Mail class average; and the proposed increase for Carrier Route is 3.529 percent, or 2.020 percentage points above the class average for Marketing Mail. Notice at 13, Table 7.

(ii) Sufficient billing determinants are available for the rate incentive to be included in the percentage change in rate calculation for the class, which may be adjusted based on known mail characteristics or historical volume data (as opposed to forecasts of mailer behavior);

(iii) The rate incentive is a rate of general applicability; and

(iv) The rate incentive is made available to all mailers equally on the same terms and conditions.

Redesignated and amended at 85 FR 9615, 9657, Feb. 19, 2020; 85 FR 35809, June 12, 2020]

²⁶ *Id.* at 13 *citing* FY 2019 ACD at 43 (Flats), 46 (Parcels), 52 (Carrier Route).

²⁷ Docket No. ACR2018, Annual Compliance Determination Report: Fiscal Year 2018, March 12, 2019, 70-72, 78 (FY 2018 ACD).

Absent possible Commission adjustments to the proposed rates that may reduce the rate increases for any of the products to below 2 percentage points above the class average, the rates comply with the Commission's directives.

The Postal Service opines that the rate directive mandate for rate-rebalancing "privileges" an Objective and Factor "at the expense" of other Objectives and one Factor. *Id.* at 13 n. 17. This may be the case, but sometimes one or more Objectives and Factors must outweigh others in order to ensure that, in the longer-run multi-year period, Objectives and Factors are fully weighed and balanced appropriately. The Commission must overweight (or underweight) the scales to correct these existing imbalances, particularly those that continue to persist with pernicious effect such as where certain Marketing Mail product rates consistently fail to recover significant attributable costs.

IX. CLASSIFICATION CHANGES

A. Promotions

The Postal Service proposes several classification changes in its Notice and in Appendix A of the Notice reflecting its modifications to the Mail Classification Schedule. The Postal Service is planning to implement all of its Promotions for Calendar Year 2020 in the same months of Calendar Year 2021. Except for updates to the Earned Value Reply Mail promotion, discussed above, and the minor addition of voice assistant technology to Mobile Shopping promotion, the promotions for Calendar Year 2020 have not been updated. Notice at 30-32. The Public Representative has reviewed the proposed changes to the classification language and believes them to be consistent with Commission orders.

B. Customized Postage

The Postal Service's Notice does not mention that in this proceeding it is also striking Customized Postage from the MCS. Notice, Appendix A at 115. This is the program

²⁸ Docket No. ACR2010, Annual Compliance Determination Report: Fiscal Year 2010, March 29, 2011, at 106.

authorizing vendors to provide customers with postage consisting of customer-selected images for use as indicia of postage payment.

By striking Customized Postage from the MCS, the Postal Service is implementing Commission Order No. 5550, issued June 16, 2020, which granted the Postal Service's request of May 1, 2020 to cancel the Customized Postage program.²⁹ Order No. 5550 directs the Postal Service to notify the Commission of the effective date of the revisions. *Id.* at 8, ordering paragraph 2. With the filing in this docket, the Postal Service has provided notification that the effective date will be January 24, 2021, the effective date of the revisions to the MCS in Appendix A of the Notice. The Public Representative believes that the deletion of Customized Postage from the MCS properly implements Commission Order No. 5550.

X. CONCLUSION

Assuming the Postal Service provides a satisfactory explanation for the Stamp Fulfillment Services price increase at less than the class average for Special Services, all of the rate and classification changes proposed by the Postal Service are consistent with applicable law, including the requirements of 39 CFR part 3030, subpart B.

Respectfully submitted,

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²⁹ Docket No. MC2020-126, Order Approving Removal of Customized Postage from Mail Classification Schedule, June 16, 2020, at 8.